

IN THE MUSCOGEE (CREEK) NATION SUPREME COURT

SUPREME COURT  
FILED

CITIZENSHIP BOARD OF THE )  
MUSCOGEE (CREEK) NATION, )  
 )  
Appellant, )  
 )  
v. )  
 )  
RHONDA K. GRAYSON and )  
JEFFERY D. KENNEDY, )  
 )  
Respondents. )

MAR 20 2024

CONNIE DEARMAN *lm*  
MUSCOGEE (CREEK) NATION  
COURT CLERK

Case No.: SC-2023-10  
(District Court Case No.: CV-2020-34)

**ORDER DENYING MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

This matter comes before the Court pursuant to a March 15, 2024, *Motion for Leave to File Amicus Curiae Brief* by James D. Diamond, S.J.D., Sten Joddi, Representative Dewey McClain, Jordan Harmon, and Amy Warne.

M(C)NCA Title 27, App. 2, Rule 7 (C) provides that “[a] person wishing to intervene or file an amicus curiae brief in an appeal shall file a motion to intervene **within fifteen (15) days of the entry of the initial review decision accepting the appeal.**” [Emphasis Added]. In the instant matter, the Court issued its *Order of Docketing Notice and Filing Schedule and Order Staying Enforcement of the District Court’s September 27, 2023, Order and Opinion* [the Court’s initial review decision docketing the appeal] on October 2, 2023, placing the fifteen (15) day deadline described in Rule 7 (C) on Tuesday, October 17, 2023. Under Appellate Rule 7, the Movants’ *Motion* is untimely.

The Movants assert that they may file a Motion for Leave under Appellate Rule 15 without any temporal limit. The Court does not agree. Appellate Rule 7 provides the manner in which “a person who is not a party” may intervene in a docketed appeal, while Appellate Rule 15 outlines the content and form for both the Motion for Leave and any subsequent Amicus Brief

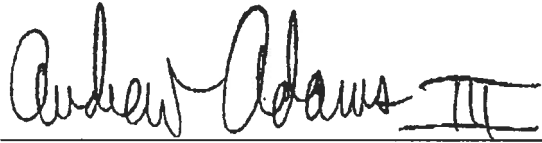
and Response Brief(s) (if permission is granted to the Movant(s)). Further, even if the Court were to entertain a Motion that does not satisfy the fifteen (15) day filing period outlined in Appellate Rule 7 (C), it would not authorize a filing period greater than that found in Appellate Rule 7 (C), or, in other words, fifteen (15) days from the triggering event. In the instant case, the *Brief of the Appellant* (the document upon which the Movants base their claim) was filed on January 12, 2024, sixty-four (64) days before the Movants' March 15, 2024, *Motion for Leave*. On November 8, 2023, the Court amended its Appellate Rules of Procedure, specifically Appellate Rule 17 (C)(1), which provides:

- C. **Open Record:** The record compiled by the Supreme Court is Tribal record and open to the public for viewing subject to the following exceptions and conditions:
  - 1. Any person viewing the record of any case may purchase copies of the entire record or parts thereof from the Supreme Court Clerk., Copies of any part of the record, or for costs associated with Rule 8 of the Appellate Rules of Procedure, shall be \$1.00 for the first page, and \$0.50 for each subsequent page. The Court shall also publish electronic copies of the party briefs, intermediate orders, and final decisions issued in each appellate matter to the Court's official website (for cases filed after November 1, 2023).

In practical terms, this means that a non-party who is not entitled to receive service of process, may contact the Office of the Supreme Court Clerk at any time during regular business hours and receive updates on any pending (non-sealed) case, and (if desired) purchase copies of any document filed in the case. Thus, the *Brief of the Appellant* has been available to the Movants since its filing on January 12, 2024. The Movants have not satisfied the fifteen (15) day deadline outlined in Appellate Rule 7, nor have the Movants shown the urgency the Court would require to consider deviating from its set rules concerning intervention.

**IT IS THEREFORE ORDERED** that the Movants' March 15, 2024, *Motion for Leave to File Amicus Curiae Brief* by James D. Diamond, S.J.D., Sten Joddi, Representative Dewey McClain, Jordan Harmon, and Amy Warne is hereby **DENIED**.

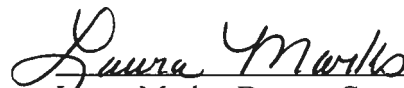
**FILED AND ENTERED:** March 20, 2024



Andrew Adams III  
Chief Justice

**CERTIFICATE OF MAILING**

I hereby certify that on March 20, 2024, I mailed a true and correct copy of the foregoing *Order Denying Motion for Leave to File Amicus Curiae Brief* with proper postage prepaid to each of the following: Jana L. Knott, Bass Law, 252 NW 70<sup>th</sup> St., Oklahoma City, OK 73116; Geri Wisner, Jeremy Pittman, and Clinton Wilson, Muscogee (Creek) Nation, Department of Justice, P.O. Box 580, Okmulgee, OK 74447; Damario Solomon-Simmons, Kymberli J.M. Heckenkemper, and Beatriz Mate-Kodjo, Solomon Simmons Law, 601 S. Boulder Ave., Suite 602, Tulsa, OK 74119; M. David Riggs, Riggs, Abney, Neal, Turpen, Orbison & Lewis, 502 W. 6<sup>th</sup> St., Tulsa, OK 74119; Graydon D. Luthey, Jr., R. Trent Shores, and Barrett L. Powers, Gablegotwals, 110 N. Elgin Ave., Suite 200, Tulsa, OK 74120. A true and correct copy was also hand-delivered to the Clerk of the Muscogee (Creek) Nation District Court.



Laura Marks, Deputy Court Clerk